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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,900	04/11/2005	Warren Thomas Johnson	2002P87057WOUS	9243

28524 7590 04/30/2010
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

EXAMINER

ANDERSON, DENISE R

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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04/30/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/530,900	Applicant(s) JOHNSON, WARREN THOMAS	
Examiner Denise R. Anderson	Art Unit 1797	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) They raise the issue of new matter (see NOTE below);
- (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 10-13 and 15-36.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. Other: _____.

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797

Continuation of 11. does NOT place the application in condition for allowance because:

The request for reconsideration puts forth arguments that were previously addressed in the final rejection, in an office action dated February 19, 2009. The arguments are listed below, with the office action paragraphs cited that addresses each argument.

1. Applicant argues that Ide teaches it is undesirable to operate a membrane filtration apparatus to displace liquid from within an aeration hood shrouding the membranes. Applicant further argues that the Horii method would not have been modified by Ide. From the previous office action, please see paragraph 4, Table 1, the Horii figures on p. 6, and the patentability analysis incorporating Ide for explicitly teaching the enclosed aeration hood in paragraphs 17-19. As such, the limitation is met that recites "the aeration hood configured and arranged such that a gas fed into the aeration hood will displace feed liquid and lower a level of feed liquid in the aeration hood."
2. Applicant argues that the sleeves or open-ended tubes are not taught by any of the references. From the previous office action, please see paragraph 4, Table 1, p. 6 figures, and paragraphs 8 and 14-16 for the patentability analysis incorporating Cote et al. for explicitly teaching the sleeves or open-ended tubes.
3. Applicant argues that Horii, Cote et al., and Ide are not combinable. Regarding Horii, in view of Cote et al., please see Point 2 above. Regarding Horii, in view of Cote et al., in view of Ide, please see Point 1 above.
4. Applicant argues that the references do not teach the claim 20 limitation of "at least one aeration opening in a wall of the aeration hood positioned adjacent to the open region." From the previous office action, please see paragraph 20, the Table 2 entries for "Aeration hood," "Aeration opening," and "Open region." As such, the limitation is met.
5. Applicant argues that the references do not disclose extending the sleeve or tube partially along the length of the membrane module, as recited in independent claims 20, 22, and 27. From the previous office action, please see paragraph 20, Table 2, the Horii figures on p. 6, and the patentability analysis for this limitation in paragraphs 25 and 26, including the figures.